



COUR EUROPÉENNE DES DROITS DE L'HOMME  
EUROPEAN COURT OF HUMAN RIGHTS

SECOND SECTION

**CASE OF MAGYAR v. HUNGARY (No. 2)**

*(Application no. 442/03)*

JUDGMENT

STRASBOURG

4 April 2006

**FINAL**

*04/07/2006*

*This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.*



**In the case of Magyar v. Hungary (No. 2),**

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Mr J.-P. COSTA, *President*,

Mr A.B. BAKA,

Mr R. TÜRMEŒ,

Mr K. JUNGWIERT,

Mr M. UGREKHELIDZE,

Ms D. JOČIENĚ,

Mr D. POPOVIĆ, *judges*,

and Mrs S. DOLLĚ, *Section Registrar*,

Having deliberated in private on 14 March 2006,

Delivers the following judgment, which was adopted on that date:

**PROCEDURE**

1. The case originated in an application (no. 442/03) against the Republic of Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Hungarian national, Mr Lajos Magyar (“the applicant”), on 12 November 2002.

2. The Hungarian Government (“the Government”) were represented by their Agent, Mr L. Hőltzl, Deputy State-Secretary, Ministry of Justice.

3. On 29 June 2005 the Court decided to communicate the application. Applying Article 29 § 3 of the Convention, it decided to rule on the admissibility and merits of the application at the same time.

**THE FACTS****THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1937 and lives in Budapest.

**A. First proceedings**

5. On 11 March 1996 the applicant brought an action before the Pest Central District Court seeking the termination of the common ownership of real estate belonging to him and his divorced wife.

6. At the subsequent hearings on 27 March, 12 June, 29 June and 21 October 1997 and 26 May 1998, the applicant extended his claims to include the allocation of other items of the matrimonial property. He was repeatedly invited to give better particulars of his claims.

7. At the hearing on 22 October 1998 the District Court suspended the proceedings pending the outcome of expropriation proceedings concerning one of the real properties at issue.

8. On the applicant's procedural appeal, on 14 January 1999 the Budapest Regional Court ordered that the proceedings be resumed. Subsequently, hearings were held on 9 September 1999, 6 January and 11 April 2000. On the latter date the District Court appointed a valuation expert. The expert filed his report on 1 August 2000.

9. Further hearings took place on 12 September 2000, 9 January and 4 October 2001. On 25 January 2002 another valuation expert was appointed.

10. The court held additional hearings on 12 February, 26 November 2002, 20 March, 10 July 2003, 9 March, 24 July, 4 November 2004, 4 January and 14 April 2005. On the latter date it again invited the applicant to give better particulars of his claims.

11. The proceedings are still pending.

## **B. Second proceedings**

12. On 23 May 1997 the Budapest and Pest County Health Insurance Fund issued a payment order against the applicant concerning unpaid social-security contributions. Subsequently the applicant brought an action in the Pest Central District Court challenging the lawfulness of the administrative decision.

13. On 3 May 1999 the court observed that, due to a change of legislation, the respondent was replaced by the Tax Authority. On 11 January 2000 the Budapest Regional Court dismissed the applicant's procedural appeal. He filed a petition for review with the Supreme Court which he withdrew on 27 September 2000.

14. The court held hearings on 28 March and 5 December 2001. On 5 April 2002 an expert accountant was appointed. The expert presented his opinion on 28 August 2002.

15. Further hearings took place on 2 October and 28 November 2002.

16. On 22 January 2003 the District Court dismissed the applicant's action, holding that the payment order had been issued lawfully.

17. On 11 April 2003 the applicant appealed.

18. On 26 January 2004 the Budapest Regional Court dismissed the applicant's appeal.

19. On 14 April 2005 the Supreme Court dismissed the applicant's petition for review.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

20. The applicant complained that the length of both proceedings had been incompatible with the “reasonable time” requirement of Article 6 § 1 of the Convention, which reads as follows:

“In the determination of his civil rights and obligations ..., everyone is entitled to a fair hearing within a reasonable time by [a] ... tribunal...”

21. The Government contested that argument.

22. In the first proceedings, the period to be taken into consideration began in March 1996. They appear to be still pending, as the parties have not informed the Court otherwise. They have thus already lasted ten years for one level of jurisdiction.

23. In the second case, the period to be taken into consideration began in May 1997 and ended on 14 April 2005. It thus lasted seven years and eleven months for three levels of jurisdiction.

#### A. Admissibility

24. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

#### B. Merits

25. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

26. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above).

27. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or convincing argument capable of persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject, the Court considers that in the instant case the length of both proceedings was excessive and failed to meet the “reasonable time” requirement.

There has accordingly been a breach of Article 6 § 1.

## II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

28. The applicant complained that the domestic courts' decisions were wrong. He relied on Articles 6 and 13 of the Convention and Article 1 of Protocol No. 1.

29. The Court observes that the first proceedings are still pending. Therefore, the complaints concerning this case are premature and must be rejected pursuant to Article 35 §§ 1 and 4 of the Convention.

30. As regards the second proceedings, the Court considers that there is nothing in the case file indicating that the courts lacked impartiality or that the proceedings were otherwise unfair, in breach of Article 6. Moreover, the court judgments upholding the competent authority's decision to levy the social security contributions owed by the applicant, which were given in proceedings devoid of any sign of arbitrariness, cannot be considered a deprivation of property in violation of the applicant's rights under Article 1 of Protocol No. 1. It follows that this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected pursuant to Article 35 § 4 of the Convention.

## III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

31. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

### A. Damage

32. In respect of the first proceedings, the applicant claimed, under the head of pecuniary damage, the ownership of three real properties connected to the case; 135,000 Hungarian forints<sup>1</sup> (HUF) per month from 1 April 1996 onwards for lost profits; HUF 500,000<sup>2</sup> for lost tangible assets; and, under the head of non-pecuniary damage, HUF 6 million<sup>3</sup>.

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<sup>1</sup> Around 538 euros « EUR »

<sup>2</sup> Around 1,995 EUR

<sup>3</sup> Around 23,940 EUR

33. In respect of the second case, the applicant claimed, under the head of pecuniary damage, HUF 150,000<sup>1</sup> per month from 1 July 1987 onwards as compensation, as well as HUF 3.2 million<sup>2</sup> for non-pecuniary damage.

34. The Government contested these claims.

35. The Court does not discern any causal link between the violations found and the pecuniary damage alleged; it therefore rejects this claim. However, it considers that the applicant must have suffered some non-pecuniary damage. Ruling on an equitable basis, it awards him altogether 8,000 EUR under that head, in respect of both proceedings.

### **B. Costs and expenses**

36. The applicant also claimed HUF 1,368,000<sup>3</sup> and HUF 1,071,000<sup>4</sup>, respectively, for the costs and expenses incurred before the domestic courts and the Court, in respect of both cases.

37. The Government did not express an opinion on the matter.

38. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award the applicant, who was not represented by a lawyer, the sum of 500 EUR under this head.

### **C. Default interest**

39. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

## **FOR THESE REASONS, THE COURT UNANIMOUSLY**

1. *Declares* the complaint concerning the excessive length of proceedings admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

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<sup>1</sup> Around 598 EUR

<sup>2</sup> Around 12,768 EUR

<sup>3</sup> Around 5,458 EUR

<sup>4</sup> Around 4,272 EUR

3. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, 8,000 EUR (eight thousand euros) in respect of non-pecuniary damage and 500 EUR (five hundred euros) in respect of costs and expenses, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 4 April 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ  
Registrar

J.-P. COSTA  
President